

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSE E. PAULINO,

Petitioner,

-against-

MICHAEL A. ZENK, Warden, FCI
Allenwood and THE PEOPLE OF THE STATE
OF NEW YORK,

Respondents.

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DEBORAH A. BATTIS, United States District Judge.

On January 4, 2006, United States Magistrate Judge Henry B. Pitman issued a Report and Recommendation ("Report"), recommending that Petitioner's petition for a writ of habeas corpus under 28 U.S.C. § 2254 be denied. (Report at 2).

Pursuant to 28 U.S.C. § 636(b)(1)(C), "[w]ithin ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations." 28 U.S.C. § 636(b)(1)(C); see also F.R.C.P. Rule 72(b) (stating that "[w]ithin 10 days after being served with a copy of the recommended disposition, a party may serve and file specific, written objections to the proposed findings and recommendations"). Section 636(b)(1)(C) also requires a Court to make a "de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." However, where no timely objection has been made, "a

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district court need only satisfy itself there is no clear error on the face of the record." Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985). After conducting the appropriate level of review, the Court may then accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate. 28 U.S.C. § 636(b)(1)(C); see also Local Civil Rule 72.1(d). To date, no objections to said Report and Recommendation have been filed.

Accordingly, having reviewed the Report and Recommendation and finding no clear error on the face of the record, it is hereby ORDERED AND ADJUDGED as follows:

- (1) The Report & Recommendation of Judge Pitman, dated January 4, 2006 is hereby APPROVED, ADOPTED, and RATIFIED by the Court in its entirety;
- (2) Petitioner's Petition is DENIED;
- (3) A certificate of appealability will not issue because Petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253; see United States v. Perez, 129 F.3d 255, 260 (2d Cir. 1997). Pursuant to 28 U.S.C. § 1915(a)(3), the Court

certifies that any appeal from this order would not be taken in good faith. Coppedge v. United States, 369 U.S. 438, 8 L. Ed. 2d 21, 82 S. Ct. 917 (1962).

The Clerk of the Court is directed to close the docket in the above-captioned case.

SO ORDERED:

DATED: New York, New York
February 7, 2008

Deborah A. Batts
Deborah A. Batts
United States District Judge